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Senate

The Senate met at 9 a.m. and was called to order by the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, You give the day and show the way. You guide what we are to do and say and help us without delay. Whatever challenges we must face, You promise us Your strength and grace. You never give us more than we can take, and guide the decisions we must make. Help us to look for vision from above and rejoice in Your unlimited love. When this day comes to an end, may we praise You for being our Father and our Friend. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The senior assistant bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 21, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the duties of the Chair.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, the Senate will shortly begin with a period for morning business that will last for 30 minutes. The Senate will then resume consideration of the trade act. There will be 90 minutes of debate in relation to the Rockefeller-Mikulski-Wellstone steel amendment prior to a rollover vote on a motion to invoke cloture on the amendment at approximately 11 o'clock.

Senators have until 10 a.m. this morning to file second-degree amendments to the steel amendment and until 1 p.m. to file first-degree amendments to the Baucus substitute amendment.

A cloture motion was filed last night on the bill itself, and the vote will take place tomorrow.

The Senate will recess from 12:30 until 2:15 p.m. for the weekly party conferences.

There are numerous amendments now pending on this trade bill. We will do our best to work through those amendments. It will be difficult to do that. As we know, we can do about three votes an hour. It will take a lot of hours to complete all of those amendments. We will do our best to work through that. We hope the managers can accept some of these amendments. That would save a lot of time. There are other amendments that Senators wish to offer. The key amendment, I am told, is the Kerry amendment which is the fifth in order of the amendments pending. I hope we can get to that quickly. If we can work out some limited debate on it, that would be beneficial. But unless we have a unanimous consent agreement, it will be very hard to get time even for debate on that.

There is a lot of work to do.

I understand that today the House is trying to get a rule on the supplemental appropriations bill. If they do that, it is possible we could get the supplemental sometime late tomorrow. That being the case, I am confident Senator BYRD and Senator DASCHLE would like to do the supplemental bill prior to our leaving for the Memorial Day recess. There is a lot of work to do with the limited number of days.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be for 30 minutes so that debate on the Mikulski matter could start at about 25 minutes until 10, rather than 9:30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:35 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

The Senator from New Jersey.

Mr. CORZINE. Thank you, Mr. President.

SOCIAL SECURITY

Mr. CORZINE. Mr. President, I rise today to talk about an issue that I have spoken about a number of times

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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in this Chamber—one that is of great importance to the people of the State of New Jersey, but, even more importantly, to the people of the country; that is, Social Security, and the arguments that will be made about the privatization of Social Security, and those proposals developed by the Bush Social Security Commission.

As I have repeatedly explained when I talked about this issue, those proposals include deep cuts in guaranteed Social Security benefits, and that would force many Americans to extend the period of time before they retire.

Again, as I have repeatedly said, I think this is an issue that needs to be debated in front of the American people before we go to the polls this November. It is not one of those issues that should be decided by discussions between policy wonks and politicians. It needs to be understood by the American people, and they should have the right to express their opinions by those they have chosen to represent them.

Three weeks ago, I had the honor of representing the Democrats on our Saturday morning radio address, and I tried to make the case that benefit cuts proposed by the Bush Commission was a serious mistake in policy direction. Afterwards, the Cato Institute—one of the leading organizations pushing for privatization—issued a long treatise criticizing my statement.

Today, the Cato Institute is going to have another policy forum on privatization, particularly as it impacts minorities, and specifically Hispanics. So I thought it would be appropriate for me to deal with some of the arguments that have been made in response to my radio address. That is what I would like to do this morning.

In that radio address, I pointed out that President Bush's Social Security Commission developed privatization plans that would require drastic cuts in Social Security benefits that could exceed 25 percent for many people working today and more than 45 percent in the longer term.

Cato responded by claiming:

Charges of "cuts" are simply false.

In fact, it is the Cato Institute claim that is false. The truth is that the cuts I cited are based on the estimates of the independent, nonpartisan Social Security actuaries and are published in the Bush Commission's own report. I invite my colleagues, and certainly the academics at Cato, to take a look at page 75 in the report where those specific numbers are cited. These cuts apply to all Social Security beneficiaries, including retirees, the disabled, and survivors.

Moreover—this is an important point—the cuts would apply even to those who choose not to contribute to private accounts. Those people who choose to contribute to private accounts would get more serious cuts, but even those who continue to choose to be in Social Security would experience serious cuts as well.

Having argued the Bush Commission is not cutting benefits, the Cato Insti-

tute at another point backed off and said only that benefit cuts would not affect "current and near-retirees."

That is one of those discussions we will definitely have in the political debate this fall. But even this narrower claim is also false. Cato refers to the Bush Commission's "Plan 2," which explicitly calls for cuts in guaranteed benefits for all beneficiaries who retire beginning in 2009. This may create the impression that those who retire in the next 7 years are protected from benefit cuts. But, frankly, that is just not true.

First, to the extent that individuals contribute to private accounts, these contributions would trigger cuts in guaranteed benefits under the Commission's so-called "clawback" provisions. In other words, on the one hand the Bush Commission is offering up the promise of private accounts, with another they are cutting Social Security benefits for every dollar contributed to those accounts. That is what the clawback is all about; that amounts to playing, as far as I am concerned, bait and switch with America's retirees, and particularly the ones who are in near-term progress towards retirement.

I note that the cuts in guaranteed benefits would apply even if the value of a private account collapsed. Markets do go up and down. We have seen the value of the stock market decline as much as 30 or 50 percent in periods of time. Some may believe that the stock market only goes up. I am here to tell you, from my experiences in life, that is just not true. I certainly know that people are empathetic with what Enron employees have experienced. The fact is, markets move around, up and down. If the Bush Commission's proposals are adopted, those unlucky enough to lose money in their private accounts would have fewer Social Security benefits on which to fall back.

Keep in mind the average level of Social Security benefits today, for the average retiree, is less than \$10,000—about \$9,000 on average. And it is about \$7,500 for women, which is an issue we talked about last week. That is before the "clawback." And I promise you, \$7,500 or \$10,000 is not enough in my home State of New Jersey to have a satisfactory and safe environment in your retirement. It is just inadequate to support even a basic standard of living in most parts of the country.

It is also important to emphasize that the Bush Commission avoids calling directly for deeper and more immediate cuts in guaranteed benefits only—only—by assuming general revenue subsidies of the Social Security trust fund worth up to \$6.5 trillion in today's dollars. Yet now that the Bush tax cut has been enacted—and we have had a recession, and some other events have impacted Government—we are again running very serious deficits.

Just yesterday, the Treasury announced we are at \$66 billion in deficit this fiscal year. It is highly unlikely, in a period of serious fiscal deficit that

we are going to be able to come up with \$6.5 trillion to subsidize the general account of Social Security.

Without those subsidies, the Bush Commission would force the Social Security trust fund into a negative cashflow by 2010—not 2017, 2010—and the trust fund would be insolvent in 2025—not the 2041 that is now projected by the actuaries of the Social Security trust fund. At that time, many of today's middle-aged and older Americans will be retired, and many of those people will be dependent on Social Security.

In other words, current and near-term retirees are not protected under the Bush plan, notwithstanding the Cato claims to the contrary. Even the deep cuts proposed by the Bush Commission for all beneficiaries assume general fund subsidies that are unlikely to materialize. In fact, actual cuts are likely to be even greater.

Mr. President, let me turn to another related claim by the Cato Institute.

As I explained in my radio address, plans to privatize Social Security would take trillions of dollars from the Social Security trust fund. But Cato disputes that. They argue that personal accounts should be considered as part of Social Security. Taking the money out, giving it to the individual to manage, they are going to call that a part of the Social Security fund. They would go even further and say that is going to build the assets of the fund because they are going to presume that markets always go up.

It is ironic to hear advocates of privatization argue that private accounts should be considered a part of Social Security, considering that the arguments they make repeatedly emphasize such accounts would be owned and controlled by individuals. There is a failure of logic involved.

Beyond this apparent inconsistency, the more fundamental point is that private accounts would not guarantee the basic benefits that Social Security is designed to provide. It would only provide those benefits they would be able to purchase with the provision of those accounts. So those guaranteed benefits that are funded from the Social Security trust fund today would be challenged because that money is withdrawn. The Bush Commission undeniably would drain the trust fund of trillions of dollars that are needed to pay those guaranteed benefits.

The trust fund already has a \$3.7 trillion shortfall, according to the actuaries, over its adjusted life. Taking money out of the trust fund only makes that shortfall worse.

I think it is highly misleading to argue that general fund subsidies will "build the system's assets." It just does not jibe with common sense. These general revenues are not budgeted for and may never materialize. We have to do that each year as we go along. If they do, they can be used to avoid the deep cuts, of course, but there is no guarantee that is going to

happen, and there is no certainty that the level of Social Security benefits will be maintained the same if those revenues are not appropriated.

I will not take the time of my colleagues to respond to each of Cato's claims—I am putting out a written statement today that deals with each of the points they have made in a sort of 15-, 16-page report—which they put out in a 5-minute morning radio address.

When you cut through all the misleading arguments, there are a few simple truths to keep in mind about the privatization of Social Security as proposed by the Bush Commission. It would cut guaranteed benefits by 25 percent for current workers and up to 45 percent for many workers in the future. Those cuts would apply to everyone, even those who choose not to take on the responsibility of private accounts. And the cuts would force many Americans to delay their retirement to make sure they had adequate resources in their retirement years.

For these reasons, I believe the Bush Commission's plans to privatize Social Security would be a mistake for our country. Notwithstanding attacks from folks at the Cato Institute and other privatization advocates, I intend to continue to make this argument over and over so that we can raise this issue and have a real debate about the direction for Social Security before this year's election. We really need to have that.

This is a fundamental shift in American policy. We Democrats, and most Americans, are very secure with the idea that Social Security provides one of those three legs to the retirement of every individual. It is one of those initiatives that has worked. Americans feel very comfortable knowing that there is a baseline to their retirement security.

I hope we can have a real debate demonstrating that changing its nature, therefore, would undermine people's retirement security in the years ahead. So that is why it is important to speak on this issue over and over, to engage this as a debate the American people need to hear.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FBI FAILURE

Mr. SPECTER. Mr. President, I have sought recognition to comment about the failure of the FBI to act on the Phoenix memorandum in a timely way—that memorandum had reasonably explicit warnings about a terrorist

attack, al-Qaida, and a sneak attack—and especially about the failure of the Federal Bureau of Investigation to call that matter to the attention of the Judiciary Committee as a matter of oversight.

We have since learned that the FBI had information, in 1995 and 1996, which referenced the possibility of a hijacking and hitting the CIA headquarters or some other building in Washington, DC, and apparently that information was not transmitted to the White House. It was not transmitted to the Senate Intelligence Committee either at that time because I chaired the Intelligence Committee in 1995 and 1996.

According to reports, when the President was briefed on August 6 of last year, there were only generalized warnings given, and the CIA, which reportedly gave the briefing, did not have the information about the matters known to the FBI back in 1995 and 1996.

It is my view that the Director of the FBI ought to be called upon by the Senate Judiciary Committee to answer some very fundamental questions. I say the Judiciary Committee because the Judiciary Committee has the primary responsibility for oversight on the FBI.

It was the Judiciary Committee which confirmed Director Mueller, and I spent considerable time with Director-designate Mueller before he was confirmed, meeting with him in a so-called courtesy call, and then questioned him at some length before the Judiciary Committee. At that time we received commitments that the new Director would not make the same mistakes which had been made in the past by the FBI and would, in fact, turn over his own information which was proper for Judiciary Committee oversight.

One of the subjects I discussed with Director-designate Mueller at that time was a key memo in the FBI file going back to December of 1996 when the Department of Justice was pulling its punches because of concern that Attorney General Reno might not be retained for President Clinton's second term. It was my view that this memo should have been turned over on a voluntary basis as a matter of appropriate disclosure.

The Judiciary Committee did not receive that memorandum until a subpoena was issued by a subcommittee that I chaired, and not until April of 2000. While the Intelligence Committees do have the primary responsibility for investigating the intelligence failures of September 11, 2001, the Judiciary Committee has the responsibility on FBI oversight and on the question of reorganization of the FBI. There are major issues that have to be answered as to why the FBI did not tell the CIA about the 1995 and 1996 incidents so that the CIA would have that material available when they briefed the President.

This is reminiscent of a major intelligence failure that goes back to September of 1997, when the Senate Gov-

ernmental Affairs Committee was investigating campaign finance reform. At a joint hearing with the FBI and CIA, the CIA disclosed what the FBI had in its files, which the FBI had not disclosed, saying they had not realized it was in their files.

So there are some very fundamental questions to be answered, which do not get into any of the confidential memos and any sources and methods; and that is why Director Mueller of the FBI did not turn over the Phoenix memo to the Judiciary Committee on their own before it was sought after, and why the FBI did not tell the CIA this fundamental information so that the CIA would have it when they were briefing the President.

Last Thursday, I wrote to FBI Director Mueller calling on him to answer these questions, and I sent a copy of the letter to Director Tenet of the CIA asking him similar questions. When I saw the reports in the New York Times on Saturday morning about the information from 1995 to 1996 which, I repeat, I had not been told about when I chaired the Intelligence Committee, I called Senator LEAHY and Senator HATCH and urged that we have hearings very promptly to find out these basic questions about communications. It is not even necessary to see the Phoenix memorandum to question why it was not disclosed, to find out why the FBI does not communicate with the CIA.

I then called Director Mueller to ask if he would be willing to come in to testify early this week. He said he would have to take the matter up with someone else and get back to me. In a second telephone conversation on Saturday, he said he was not prepared to testify until there had been negotiations completed between the Judiciary Committee and the Department of Justice about the disclosure or production of certain documents. I replied that it was not a matter of production of documents; these fundamental questions ought to be answered and ought to be answered promptly for the American people, for Congress, and for the Judiciary Committee in our oversight function.

I then reminded Director Mueller that he had a 10-year term. The Congress has given the FBI Director a 10-year term so that he does not have to ask permission from anybody—not the Attorney General, not the President, not anybody—when it comes to a matter where there may be a conflict of opinion between congressional oversight and what the Department of Justice may have in mind. It is up to Director Mueller to make an independent judgment. That is why he has a 10-year term.

I did not tell Director Mueller he was subject to a subpoena. That is a matter only for the committee. I did discuss that possibility with the chairman, Senator LEAHY, and with the ranking member, Senator HATCH. I then called all of my Republican colleagues on the Judiciary Committee to discuss the situation and discuss the possibilities of a